PACIFIC RAILROAD FUNDING BILL.

SPEECH

OF

Hon. JAMES McLACHLAN,

OF CALIFORNIA,

IN THE

HOUSE OF REPRESENTATIVES,

JANUARY 9, 1897.

WASHINGTON.
1897.

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The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 8189) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; also to amend an act approved July 2, 1864, and also an act approved May 7, 1878, both in amendment of said first-mentioned act, and other acts amendatory thereof and supplemental thereto, and to provide for the settlement of claims growing out of the issue of bonds to aid in the construction of certain railroads, and to secure the payment of all indebtedness to the United States of certain companies therein mentioned—

Mr. McLACHLAN said:

Mr. CHAIRMAN: In the brief space allowed me for the discussion of this bill there is not time to refer but briefly to the history of the railroads under consideration. Under the law of 1862 the right of way was granted these railroads, 12,600 acres of land given for every mile to be built, and subsidy bonds issued at the rate of $16,000, $32,000, and $48,000 per mile, according to the character of the country through which the roads were to be built. These bonds were to constitute a first-mortgage lien upon the property and were to be repaid in thirty years.

This was a princely donation, but the originators realized that they could do better, and took no active steps for two years, when the land grant was doubled, the lien of the Government subordinated to a second place, and a first mortgage allowed to be placed upon the property equal to the original grant of subsidy bonds, amounting to about $64,000,000.

Then the gentlemen comprising the original projectors of this scheme, whose combined capital was insignificant, built the Central Pacific for $58,000,000, capitalized it at $139,000,000, and divided the profits and Government subsidy among themselves. The Union Pacific was manipulated in a like manner through the Credit Mobilier, and as a result $324,000,000 was paid to stockholders of the Pacific companies. In addition to the $64,613,000 of bonds received, there were 31,900,000 acres of land granted. But notwithstanding these princely fortunes accumulated by reason of the fabulous liberality of the United States Government, from the very inception of the enterprise there seems to have been a steady design on the part of those who had grown rich by this liberality to prevent the Government from ever realizing anything upon the advances it had made or the obligations it had assumed. From being the lessors of the Southern Pacific Railroad lines in California, New Mexico, and Arizona, the Central Pacific was placed under control of the latter company and its earnings practically limited to a 2 per cent guaranty.

The roads were completed on May 10, 1869, and the Government delivered the last of the bonds. Five years later, when the railroad companies were asked to account for the 5 per cent of their earnings provided by law to be paid the United States, they denied that the roads were completed. This point was decided against them by the United States Supreme Court, and they then insisted that there were no earnings, because they had been expended in building branch lines upon which the Government had no legal claim. They denied the rights of the United States to a lien on the terminals and the Omaha bridge, and these questions are now pending in court. Both companies brought exorbitant charges against the Government for carrying mail and troops, and these were disallowed by the Court of Claims. They denied the right of the Government directors to meet with the directors of the Union Pacific Railroad Company. The Union Pacific, with an original mileage of 1,821.86 miles, now has 7,672.09, the difference being built out of the profits of the original grant, but upon which the Government has now no legal lien.

These railroad companies went openly into politics and put out railroad tickets in the Western States. So notorious did this become that when the Credit Mobilier scandal was exposed but little surprise was manifested. Then came the Wilson investigation of 1873; and the reports of that committee present a most astounding state of affairs. Then the Thurman Act of 1878 was passed, requiring the roads to pay in all of their earnings from transportation of mail, troops, munitions of war, and 25 per cent of their net earnings, which constituted a sinking fund. The railroad companies at once tested the constitutionality of this law. It was sustained by the United States Supreme Court, and suddenly, in 1880, seventeen years before the debt became due, the railroad companies started an active effort to have their indebtedness to the Government funded. There had been no intimation of insolvency prior to that time by either company. Their stock ranked high in the market; dividends were paid with clock-like regularity, but suddenly it developed that they were "about to become insolvent," according to their own claims.

In 1887 another commission reported, and this report, as in case of the Wilson committee, charged gross frauds from the inception of these companies. Acting upon these reports, the Fiftieth Congress passed a law authorizing the Executive and Attorney-General to proceed to foreclosure in case the indebtedness was not paid. Every Congress since that time has been besieged by these companies. Is their past record such as to inspire confidence in the stability of any agreement they might make in the future?

The first thing that a prudent man does when entering upon a contract is to put in figures just what he obligates himself to pay and what the other party is obligated to pay or do.

It is a well-known fact that United States bonds can not be floated bearing a less rate of interest than 3½ per cent.

This bill provides that the Central and Union Pacific shall pay 2 per cent interest on the uncanceled portions of their debts to the Government. In addition they are to pay "installments of principal" aggregating $730,000 a year for the first ten years, $1,000,000 a year for the next ten, and $1,500,000 annually thereafter until the debt is "paid."

The principal of the debts amounted on the 1st of the present month to about $121,140,942.39.

The funding bill provides for certain offsets which reduce this figure slightly.

The first annual payment made by the Central and Union Pacific will be $2,422,818.84 for interest and $730,000 for "installment," or $3,152,818.84 in all. After that the railroads will pay less and less for ten years, when they will be paying for interest and installment combined $3,021,418.84, or 2.5 per cent.

During all this time the Government will be paying its own creditors on an equal amount of debt $4,239,932.98 a year in interest, none of which will be counted as an installment on the principal. In this period of ten years the railroads will have reduced the principal of their debt by $7,300,000, and yet they will lack $11,528,141.43 of having paid the Government as much for interest and principal combined as it will have paid its creditors for interest alone on the money it has been obliged to borrow by reason of the nonpayment of this railroad debt.

The next year the "installment" will increase to a million dollars, and that will bring up the total railroad payments for the year, including interest, to $3,276,818.84, or 2.7 per cent on the original debt.

From this point they will decline for ten years more, until in the tenth year they will amount to $3,096,818.84, or 2.56 per cent. In this period of ten years the total railroad payments for interest and principal combined will lack $10,531,141.43 of meeting the cost of similar loan to the Government for interest alone.

The railroads will then owe the Government $103,840,942.39, which they will pay off at the rate of $1,500,000 a year until it is all extinguished.

The first year this "installment," plus interest at 2 per cent, will amount to $3,576,818.84, which will be equivalent to 2.95 per cent on the original debt. That is the largest payment that will ever be made in any one year during the whole course of the liquidation, and it will fall short by $663,114.14 of the amount the Government will have to pay its creditors for interest alone during every one of the eighty-nine years the process will last, and every year thereafter until it chooses to pay the principal in full.

These installments will clear off the entire debt in about sixty-nine years more, making about eighty-nine years from the beginning.

The last full year's payment for interest and installments combined will amount to $1,540,000, or 1.27 per cent on the original debt, and about $2,700,000 less than the Government charges for interest alone on a similar debt.

The state of the account at the end of the process will be this: In the first ten years the Government will have paid its creditors in interest on the money it has been obliged to borrow by reason of the nonpayment of this railroad debt $11,528,141.43 more than it will have received from the roads for interest and principal combined. In the next ten years its excess of payments will reach $10,531,141.43.

In the remaining sixty-nine years it will pay $117,025,125.64 more than it will receive. By the time the railroads have "extinguished" their debt their aggregate payments to the Government for interest and principal combined will lack $139,084,408.50 of the Government's payments for interest alone, taking no account for interest on interest. And while the railroads will then be free of the debt, the Government will still owe the whole original principal, amount-

ing to $121,140,942. Its total loss from the funding operation, therefore, will be $260,225,350. The total amount of the payments for principal and interest under the provisions of this bill will amount to about 2.3 per cent on the principal debt for eighty-nine years, and at this rate would leave the principal debt still unpaid and due the Government.

This is not a proposition for the railroads to pay the United States Government, but purely and solely for the United States to present it with millions of dollars more than they have already received.

There is not a railroad company in the United States that would not pay liberally to have its indebtedness funded for ninety years at 2 per cent. No such proposition was ever made before, and I venture to say that no such proposition would ever be entertained for a moment by any money lenders in the world under similar circumstances.

That it should have received the indorsement of the committee is astounding, and I can not think that they ever carried the figures out and learned what the proposition actually meant.

This bill in effect provides that the companies shall be given a clear receipt for all they have obligated themselves to pay, and, in addition to that, be presented with a further subsidy.

It has been well stated in one of the minority reports that it is not shown this is the best we can do, and on the face of the proposition it is evident that it is the worst we could do.

The bill provides that the companies shall double the amount of the present first-mortgage indebtedness, and, in return for this reducing the present value of the security to the Government, collateral lines are included, all of which are heavily mortgaged. Are they worth the amounts they are already mortgaged for Are they not already mortgaged for more than they are worth We have no information upon that subject. In fact, the bill shows that the committee possesses no information. It in terms makes a contract in ignorance of the facts upon which it rests, and makes it the duty of the Secretary of the Treasury to ascertain the facts after the contract is made. He is not empowered to change the contract, should the facts show it to be a bad one. It makes the contract absolutely without the facts, and calls upon the Secretary of the Treasury to ascertain them afterwards. Can such a dealing in the dark be justified?

But it is said, and emphasis given to the statement on the floor of this House, that something must be done, and the time is short in which to do it. The question must be settled. Why must something be done? The time is short in which to do what? Has not the question been settled?

The United States Government at enormous expense formed a commission composed of three of the ablest lawyers in America. They heard testimony which fills ten immense volumes. They rendered their decision. That decision was ratified nine years ago by the Congress of the United States with the evidence before it, and after long, exhaustive debates upon every phase of the question, Congress acted and passed a law.

Under the act of March 3, 1887, the President is authorized to direct the Secretary of the Treasury to "redeem or otherwise clear off such (any) paramount lien, mortgage, or other incumbrance" on these roads prior to that of the United States "by paying the sums lawfully due in respect thereof out of the Treasury."

He is also authorized to direct the Attorney-General "to take all such steps and proceedings in the courts and otherwise that shall be needful to redeem such lien, mortgage, or other incumbrance, and to protect and defend the rights and interests of the United States in respect of the matter in this section mentioned, and to take steps to foreclose any mortgage or liens of the United States on any such railroad property."

Congress has declared that the matter should be settled in the only branch of Government where all of the law and equity can be adjusted—the judicial. Who has ever objected to this very proper mode of collecting this indebtedness, the only one which a private individual or a corporation would ever think of adopting through their attorneys? Have there been any protests, any demands upon Congress that it should independently of the courts and the duly constituted legal authorities of the United States take this matter out of their hands? Have the people expressed a lack of confidence in the Executive and the Attorney-General? With the plenary power to make such settlement as will best subserve the interests of the people given by this law, has anyone accused the Attorney-General of incompetency to fulfill the duty imposed upon him? It is a matter of personal knowledge to every member of this House that there have been no such protests from 70,000,000 people. They are not only satisfied to let the law take its course, but through the columns of the press, in political conventions, in mass meetings, and by petitions they have demanded that the law take its course. For whom is the time short? Not for the Government, for this is not a proposition to effect a settlement, but to extend the time for a century and to burden an already bankrupt Treasury with great additional obligations. Whose interests are in jeopardy? To say that those of the Government are is a reflection upon the Executive and the Attorney-General. Whence, then, comes this clamor? From the debtors only. Usually it is the creditors who insist that a debt shall be adjusted, but every session of Congress since that which placed the whole matter in the law department, where it properly belongs, Congress has been besieged by emissaries of these railroad companies, claiming that the people's interests demanded that a settlement be made of a debt that was not due. Are they afraid the courts will do justice, and do they believe they can influence Congress to prevent justice being done? The proposition is an insult to every member of this body, but it is the only legitimate explanation of the constant presence of the Pacific railroad lobbies.

In this case the Government is the creditor, the railroad companies the debtors. Nine years ago the creditor placed this entire matter in the hands of its attorneys, with full power to protect the interest of the Government, and the debtors were notified of that fact. Ever since that time the debtors have been importuning the creditor to take the matter out of the hands of its attorney without even consulting him and settle it without the assistance of legal counsel. No course of that kind would ever be justified in case of an individual or a private corporation, and should not be in case of the Government. What will be the result if Congress fails to act? Why, there will be a full hearing in a court of competent jurisdiction and a decree rendered in accordance with the law and facts, protecting so far as possible the interests of all concerned. Is such a course a calamity calling for the hasty interposition of Congress?

I use the word "hasty" intentionally, for it would be hasty, to use the mildest term, for this Congress, without the assistance of a judicial commission and without exhaustive sworn testimony, to overrule the decision of the Fiftieth Congress, which had the benefit of those aids, and that, too, when no one except the railroad companies objects to the decision then reached. What will be the result if we do pass this bill? We must receive less than we pay out, relinquish even what control we have of these companies, and tax posterity for the next ninety years—a monument of folly! Is this result so desirable that we will be chargeable with neglect of duty if we allow the law to take its course and thus fail to provide this legacy of debt to our children and our children's children?

But this has been likened unto a composition with creditors by which time is extended. It shows no such phase as presented in this Congress. Robbed of all superfluous verbiage, it is simply a proposition that one creditor—the Government—pay the debts of the other creditors at 100 cents on the dollar, reduce the rate of interest more than one-third below actual cost of carrying, turn the property over to the debtors, allow them to retain all of the profits, and their remote descendants will pay the principal in case they feel so disposed. Any court in the United States would appoint a guardian over any man who would accept such a proposition, and treat him as non compos mentis upon the application of any relative. It has not even the advantage of being ingenious.

It is objected that only one-seventh of these systems are embraced in the main lines upon which the Government liens rest, and that with these branches in the hands of the companies the main line can not do business. While I am not inclined to dispute that the tail may wag the dog, yet if the tail is cut off I do not think the dog will die and the tail continue to wag. As these branches are feeders to the main lines, they can only be operated in connection with the main lines, not in competition with them. The branches may represent more mileage and be more profitable than the main lines, but the former can not be operated at all without the latter, and as the more they carry the more profitable they are, they will carry just as much to the main lines if they pass out of the hands of the owners as they do now. At any rate, the insolence of the argument is too great for it to be accorded much respect. The railroad companies say: "You advanced the money and we built the lines. Out of the profits we bought and built branch lines that belong to us and not to you. Our roads that we bought with the profits of your roads are more profitable than your roads; therefore, as you can not do anything with your roads without ours, you ought to give them to us."

The prospect that the Government may have to buy in the roads frightens some people. It is not necessary that the Government should buy them in if that course does not appear desirable. Nor will the court confirm a sale where the price bid is grossly inadequate. Take judgment as in any other foreclosure suit, and let the railroad be run by receivers until an adequate bid is received. The fact that his client did not want to buy a railroad would not deter a lawyer from proceeding to collect a debt against one.

The "bogy man" of the Government ownership of railroads has seemingly been conjured up by the railroad people to frighten timid legislators, and every time it is mentioned there are loud cries of "Paternalism!" It has not usually been supposed that the

Governments of France, Germany, Belgium, and Bavaria were paternal. These are the prominent countries that have tried the Government ownership of railroads. In all of them it has been a success. There have been no failures to record against the system in Europe. Charles Francis Adams, jr., a former Government director of the Union Pacific Railroad, and subsequently president of that company, wrote a treatise against the Government ownership of railroads, taking the ground that an entirely different state of affairs existed in the United States from that found in Europe. But he was honest enough to make the following statements. I quote from his book:

> To satisfy everyone always is a result not likely to be attained under any system or in any country. Meanwhile it may, with tolerable safety, be asserted that the Belgium system is as satisfactory to the people of Belgium as the nature of things human permits that it should be. Certainly the public feeling points very distinctly toward the acquisition of the remaining lines of the system by the Government, while the sale of the Government lines to promote corporations has never been urged by any considerable party. Financially the undertaking has proved a decided success.

As to France he says:

> Though not especially enterprising, the companies are, as a rule, solvent' impartial, and reliable. Indeed, those managing them look with simple astonishment on the wild fluctuations in the railroad tariffs incident to the American method of operation, and they do not hesitate to say that if any similar outrages were perpetrated on the French people and business public by them the question of the state ownership of railroads would immediately assume a new shape. Such proceedings would not be tolerated.

I do not intend to discuss at length the pros and cons of the question of Government ownership or operation of railroads, or to take any ground upon that question as an independent proposition. But under the existing conditions of these Pacific railroads and their relations to this Government, rather than pass this bill I would prefer to see this Government try the experiment of the Federal ownership and control of these roads, charging the people only sufficient for freight and passengers to pay the running expenses, keeping the roadbed in repair, and paying the interest on whatever debts might exist against them, together with a reasonable sinking fund to pay off the existing debt, and giving the people the benefit of the lowest possible rates.

The whole nation is clamoring to-day for the building of the Nicaraguan Canal under the control and management of the Government. Upon the same theory and under the existing conditions of these roads, I would like to see the experiment tried of this Government owning and controlling one transcontinental railroad from the Pacific to the Atlantic Seaboard. Such a railroad would tend to regulate the rates of all transcontinental railroads, and might successfully solve one of the most difficult and complex questions that now confront the American people.

To the extent that the right of way is conferred upon railroad corporations it is a delegation of sovereignty, and such delegations are always dangerous. They are not amenable to all the laws concerning corporations. The courts make them a class unto themselves on the ground that they are quasi public corporations. It must be admitted that this quasi public character has operated in favor of the railroad companies and not of the public.

So universal has this idea become that railroads are operated against the interests of the people that it is notorious that in the courts American juries will mulct railroad companies in the heaviest damages possible. Every attorney who represents a rail-

road company has had frequent cause to complain of the prejudice existing against that class of corporations. The American people love justice. In no country do juries bring in as fair verdicts as a rule as in the United States. The love of Americans for fair play is proverbial. Bankers, manufacturers, merchants, are all accorded justice by juries, and the fact that railroad companies alone encounter as an obstacle to the obtaining of their legal rights a universal prejudice is proof conclusive that the people have suffered at their hands. And among such offenders the Pacific railroad companies have never been backward. They have oppressed the farmers by extortionate charges, by insufficient service, and by granting low rates to favored shippers until the fertile country through which their lines pass is almost ruined. The farms are mortgaged, corn is burned for fuel, and wheat and fruit rot because they will not bring a price that will pay for shipment to market. That I am telling the truth will be borne out by every man familiar with our Western States. This has caused, more than everything else combined, the spirit of unrest that is found throughout that section. Throughout the States where these railroad lines pass there has been for years a general demand that the Government control. Now Congress has an opportunity, without incurring a dollar of extra expense, to allow the experiment to be tried in the very section where the demand for it is strongest.

It would in the past have saved the $324,000,000 paid in dividends by these same roads, even though they had not been conducted more honestly than these companies operated the lines. That saving to the producers along these roads would have rendered them independent and prosperous. Their farms would not now be so heavily mortgaged and they be suffering for the necessities of life. If the experiment proved a failure, the railroads could be sold. It will cost nothing to try it, and it will settle one way or other this widespread popular demand. It will not do to predict a failure ex cathedra. It is successful in Europe and has never been tried in the United States. It is true that Illinois, Indiana, Massachusetts, Pennsylvania, and Georgia have tried it in a very limited way. It has not been altogether satisfactory nor altogether unsatisfactory, but there are difficulties in the way of a State operating a railroad that do not exist as against the United States, for the States can not regulate shipments from or into other States.

In this case the people furnished the money, and I believe they have a right to demand that they, through their Government, shall have control of the property, at least till this debt is paid.

I therefore oppose any funding scheme, believing that the Attorney-General should act in accordance with the terms of the act of 1887 and buy in the property for the people.

But if any funding bill is passed, certainly the arrangement should be the best one possible. It is admitted that the Union Pacific can afford to offer better terms than the Central, and here is what Creed Haymond, attorney of the latter company, stated his company could do:

> The company could without any difficulty, and without assuming a burden nearly as great as is now upon it for interest, pay into the United States Treasury four millions annually, which would pay off the last dollar of this indebtedness long before the expiration of forty years. This indebtedness could be made to constitute a mortgage upon the property, and it would be a first mortgage readily available to the Government or to any person who desired to use the security.

If Congress is to act at all, it should only do so after a thorough examination of all the facts and the law and equities of the case. We have nothing before us but the reports of the committee, of which there are three, all of them stating the facts differently, and the bill reported, leaving the facts for the Secretary of the Treasury to learn. If the members of the committee who heard the evidence can not agree upon a statement as to the facts substantiated, how can those members who did not hear the evidence base any conclusion upon these reports? We know that the Central and Union Pacific railroad companies will owe the United States Government some money—as to how much, we have different statements. We know that no effort has been made by the law officers to collect it. We are informed by the debtors that they are insolvent, but we do not know that this is true, while we do know that they have not always been truthful in the past. We have no schedule of assets and liabilities that would be accepted by any court as such, or acted upon in any creditor's meeting.

We know from the reports of the Pacific railroads commission in 1887, the Wilson commission in 1873, the reports of the Government directors of the Pacific railroads each year for the past twenty years, and the messages of Presidents Harrison and Cleveland, that extensive frauds have been charged; that it is claimed there have been diversions of funds; that immense sums have been paid to stockholders, and that the companies are charged with gross violations of the provisions of their charters. We are told that there is not enough property to pay the first-mortgage bondholders and the United States, too, but there is no sworn statement or appraisal of the property. We have no evidence that there is not enough, except the statement of the debtors themselves. Taking for granted that this is true; going further, and taking it for granted that there is not more than enough property to pay the first-mortgage liens, as a matter of law, there are still some important questions to consider. What is the value of the equities? That is a matter a statute-making body can not inquire into properly or reach. It can be determined only by the judiciary.

It is a well-settled principle of law that the statute of limitations does not run against the Government; hence a judicial inquiry would probe the frauds, if any existed, and every commission ever appointed has charged that extensive frauds were perpetrated. These frauds must have been to the injury of the United States, and the courts would follow all funds diverted by fraud and give judgment for their recovery. Pass this bill and we condone these alleged frauds without a legal investigation, cut off the possibility of reaching them in the future, give the railroads a clean record up to the date of its passage, and hereafter we must be governed by the provisions of this bill alone. These companies had practically no money except that furnished by the United States. Does this create a resulting trust in favor of the United States in all property purchased with money belonging to the United States? It is a well-settled principle of equity that where property is bought with funds of another, the title being taken in the name of the purchaser, the owner of the funds has a resulting trust in the property so purchased. Is this a case within that rule? If so, every dollar of the Government money can be recovered. Has there ever been an attempt made to bring this case within this well-known rule of equity? Never.

An attempt was made to hold the stockholders of the Central

Pacific liable under the California statute. This failed, the United States Supreme Court holding that they were not liable under that statute because it was a Federal and not a State corporation. That being true, the liability of the stockholders is under the Federal law. What is that law? The statutes being silent, would not the common law prevail, and the stockholders be liable under the common law? If the common-law liability could be enforced, every dollar of the indebtedness to the United States could be recovered. Has there been any attempt to enforce it? None whatever. Should the courts hold that either of these principles applied, the debt could be collected in full, even though there was not a dollar's worth of property available under direct legal proceedings.

In connection with foreclosure proceedings, a bill of discovery could be filed, setting forth the allegations of fraud that have been made. Congressional committees have tried in vain to get the books, or information as to what they contained. If a subpœna duces tecum is not powerful enough to bring them forth, a writ of sequestration, coupled with the authority of the courts to imprison for contempt, would secure the evidence. The hearing before Congressional committees has largely been ex parte. We have only the evidence of the defendants. We know nothing about the strength of our own side of the case. There is not a lawyer in this body who would risk his legal reputation by writing a legal opinion upon the intricate legal and equitable questions involved with the confused and conflicting statements of facts before us for consideration. According to the provisions of this bill, even the amount of liabilities to be assumed is left for the Secretary of the Treasury to ascertain after the bill has passed.

If the decision of the court was against the United States on all of these points, no fraud was proved, no funds had been diverted, and the stockholders were not liable, we would be in no worse position than we are now. We could still fund the debt if thought best. It may be feared that the present foreclosure suits would be pushed and not await the action of Congress. Making the parties to the present suits party defendants will hold them in court; and if the judgment be adverse to the United States, and the Government does not want to purchase the property, and the first-mortgage bondholders refuse to wait until Congress acts, a suit for the annulment of the charter, for which there is ample grounds if reports are true, will bring the first-mortgage bondholders to terms at once. Let us have a judicial determination of the facts, a schedule of assets and liabilities, with proper appraisements, a determination of the questions of law and equity; then we will have information upon which we can act intelligently. Until then, theories and opinions are absolutely valueless, for we know nothing about the case.

Let us go into the courts, where the stockholders, the unsecured creditors, the bondholders, the Government, all, can be heard. Let us have a decision upon the merits of the case. Let us probe the charges of fraud to the bottom. Let us recover the funds that have been diverted, if any. Let us determine whether the stockholders, who have grown enormously wealthy, can not be made to account for a portion of their dividends. I believe we will collect all of our money. If not, we will be in no worse position than we are now.

It is evident from the clamor about insolvency these debtors have made, and their desperate efforts to effect a long-term com-

promise before their debt is due, that they are afraid of the courts; but the United States has nothing to fear from its judiciary. If, as they claim, they have nothing to pay with as corporations, and are not individually liable, why should they object to legal investigation? Is it purely and wholly a proposition for their advantage, and only a plan to induce the Government to pay their debts and allow them to continue in control of the property? If it is, Congress has no right to consider such a proposition for a moment. If not, it is inexplicable that they should keep up an expensive lobby in order to prevent the present law from being carried out.

While I am opposed to this funding bill, I can see how others might be earnestly in favor of funding this debt. But I can not see how any member of this House can favor funding at a rate of interest below the actual cost to the Government of carrying the debt. Nor can I see how any member can favor taking action until the courts have passed upon the important questions involved, with all parties in interest in court. When that is done, the conclusions can be entered upon the records as a decree of court, all creditors and parties in interest would be bound by it, and Congress would know just what the Government's rights are and what the companies could afford to do. I believe that the strongest friends of this bill will vote against it if they give careful consideration to the lack of definite facts and of judicial interpretation upon which we can act.

Are we justified in overruling these commissions and Congresses when every political convention and every mass meeting of citizens that has acted upon the subject has indorsed what they have done? Let me beg of the members of this House to remember that we are considering the question of collecting a debt. It has already been placed in the hands of the Attorney-General for collection, and he has not reported that it is uncollectible. We do not know whether or not the holders of the senior liens will bid enough to enable us to realize something upon our claims. We do not know whether or not other bidders can be secured. We only know that if we do not resort to legal proceedings our debtors, who, it is claimed, have persistently defrauded us in the past, agree to continue in control, provided we pay their preferred creditors. Two Congresses have favored compelling the collection of the debt; two commissions have reported against both the insolvency and good faith of our debtors; three Congresses have refused to entertain similar offers of compromise to that made now. The conduct of these debtors in the past has not been such as to command our confidence that they will carry out even the liberal provisions of this bill. They have strained every point in former enactments against the Government and have grown rich. While they have amassed fabulous fortunes by the liberality of the Government toward them in the past, they have studiously avoided making preparation against this day of settlement.

Let us now deal with them as with an ordinary individual under similar circumstances. Let the law take its course. Let exact justice be done to all, and we shall have done our duty.

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